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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 26th August, 1983:—

BILL NO. 67 OF 1983

A Bill further to amend the Salary, Allowances and Pension of Members of Parliament Act, 1954.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows :—

1. This Act may be called the Salary, Allowances and Pension of Members of Parliament (Amendment) Act, 1983. Short title.

30 of 54. 2. In section 3 of the Salary, Allowances and Pension of Members of Parliament Act, 1954— Amendment of section 3.

(*a*) for the words "five hundred rupees", the words "seven hundred and fifty rupees" shall be substituted;

(*b*) for the words "fifty-one rupees", the words "seventy-five rupees" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

According to section 3 of the Salary, Allowances and Pension of Members of Parliament Act, 1954, a member is entitled to receive salary at the rate of Rs. 500 per mensem. This rate was fixed by an amendment made in 1964. According to the same section, a member is entitled to an allowance at the rate of Rs. 51 for each day during any period of residence on duty and this rate was fixed by an amendment made in the principal Act in 1969. The emoluments of members at these rates have become highly inadequate in relation to the high cost of living.

2. The Joint Committee on Salaries and Allowances of Members of Parliament had recommended that the salary of members may be raised from Rs. 500 to Rs. 750 per month and that their daily allowance may be raised from Rs. 51 to Rs. 101 per day. It is proposed that while the salary may be raised as recommended by the Joint Committee, the rate of daily allowance may be revised so as to be Rs. 75 for each day during any period of residence on duty.

3. The Bill seeks to give effect to the above objects.

NEW DELHI;
The 3rd May, 1983.

BUTA SINGH

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to amend section 3 of the Salary, Allowances and Pension of Members of Parliament Act, 1954 for the purpose of increasing the salary of Members of Parliament from Rs. 500 to Rs. 750 per month and also for the purpose of increasing the rate of daily allowance payable to them for each day during any period of residence on duty from Rs. 51 to Rs. 75. This would involve additional expenditure of a recurring nature. The additional expenditure on account of increase in salary of members would be approximately Rs. 25,00,000 per year and the additional expenditure on account of increase in the rate of daily allowance of members would be approximately Rs. 75,00,000 per year.

2. The provisions of the Bill do not involve any other expenditure, whether of a recurring or non-recurring nature.

BILL NO. 104 OF 1983

A Bill further to amend the Delhi Municipal Corporation Act, 1957.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Delhi Municipal Corporation (Second Amendment) Act, 1983.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Amendment of section 2.

2. In section 2 of the Delhi Municipal Corporation Act, 1957 (hereinafter referred to as the principal Act), after clause (*1*), the following clause shall be inserted, namely:— 66 of 1957.

'(*1A*) "Appellate Tribunal" means an Appellate Tribunal constituted under section 347A;'.

Amendment of section 343.

3. In section 343 of the principal Act,—

(*a*) in sub-section (*2*), for the words "the court of the district judge of Delhi", the words "the Appellate Tribunal" shall be substituted;

(*b*) in sub-section (*3*),—

(*i*) in the opening portion, for the words "the court of the district judge may", the words, brackets, figures and letter "the Appellate Tribunal may, subject to the provisions of sub-section (*3*) of section 347C," shall be substituted;

(*ii*) in the proviso, for the words "the court of the district judge unless security, sufficient in the opinion of the court", the words "the Appellate Tribunal unless security, sufficient in the opinion of the said Tribunal" shall be substituted;

(*c*) in sub-section (*4*), for the words "Save as provided in this section, no court", the words "No court" shall be substituted;

(*d*) in sub-section (*5*), for the words "Every order made by the court of the district judge on appeal and subject only to such order", the words, figures and letter "Subject to an order made by the Administrator on appeal under section 347D, every order made by the Appellate Tribunal on appeal under this section, and subject to the orders of the Administrator and the Appellate Tribunal on appeal" shall be substituted;

(*e*) in sub-section (*6*)—

(*i*) for the words "has been confirmed on appeal, whether with or without variation", the words "has been confirmed on appeal, whether with or without variation, by the Appellate Tribunal in a case where no appeal has been preferred against the order of the Appellate Tribunal, and by the Administrator in a case where an appeal has been preferred against the order of the Appellate Tribunal" shall be substituted;

(*ii*) for the words "the court of the district judge", the words "the Appellate Tribunal or the Administrator" shall be substituted.

Amendment of section 344.

4. In section 344 of the principal Act,—

(*a*) in sub-section (*2*), after the words "from the premises", the words "or to seize any construction material, tool, machinery, scaffolding or other things used in the erection of any building or execution of any work" shall be inserted;

(*b*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) Any of the things caused to be seized by the Commissioner under sub-section (*2*) shall be disposed of by him in the manner specified in section 326.".

Amendment of section 345.

5. In section 345 of the principal Act, in sub-section (*1*), for the words "within three months after the completion thereof, by a written notice", the words "after the completion thereof, by a written notice of not less than seven days" shall be substituted.

Insertion of new section 345A.

6. After section 345 of the principal Act, the following section shall be inserted, namely:—

Power to seal unauthorised constructions.

"345A. (*1*) It shall be lawful for the Commissioner, at any time, before or after making an order of demolition under section 343 or of the stoppage of the erection of any building or execution of any work under section 343 or under section 344, to make an order directing the sealing of such erection or work or of the premises in which such erection or work is being carried on or has been completed in the manner prescribed by rules, for the purpose of carrying out the provisions of this Act, or for preventing any dispute as to the nature and extent of such erection or work.

(2) Where any erection or work or any premises in which any erection or work is being carried on, has or have been sealed, the Commissioner may, for the purpose of demolishing such erection or work in accordance with the provisions of this Act, order such seal to be removed.

(3) No person shall remove such seal except—

(a) under an order made by the Commissioner under sub-section (2); or

(b) under an order of an Appellate Tribunal or the Administrator, made in an appeal under this Act.".

Insertion of new sections 347A to 347E,

7. After section 347 of the principal Act, the following sections shall be inserted, namely:—

Appellate Tribunal.

"347A. (1) The Central Government shall, by notification in the Official Gazette, constitute one or more Appellate Tribunals with headquarters at Delhi, for deciding appeals preferred under section 343 or section 347B.

(2) An Appellate Tribunal shall consist of one person to be appointed by the Central Government on such terms and conditions of service as may be prescribed by rules.

(3) A person shall not be qualified for appointment as the presiding officer of an Appellate Tribunal unless he is, or has been, a district judge or an additional district judge or has, for at least ten years, held a judicial office in India.

(4) The Central Government may, if it so thinks fit, appoint one or more persons having special knowledge of, or experience in, the matters involved in such appeals, to act as assessors to advise the Appellate Tribunal in the proceedings before it, but no advice of the assessors shall be binding on the Appellate Tribunal.

(5) The Central Government shall, by notification in the Official Gazette, define the territorial limits within which an Appellate Tribunal shall exercise its jurisdiction, and where different Appellate Tribunals have jurisdiction over the same territorial limits, the Central Government shall also provide for the distribution and allocation of work to be performed by such Tribunals.

(6) For the purpose of enabling it to discharge its functions under this Act, every Appellate Tribunal shall have a Registrar and such other staff on such terms and conditions of service as may be prescribed by rules:

Provided that the Registrar and staff may be employed jointly for all or any number of such Tribunals in accordance with the rules.

Appeals against certain orders or notices issued under the Act.

347B. (1) Any person aggrieved by any of the following orders made or notices issued under this Act, may prefer an appeal against such order or notice to the Appellate Tribunal, namely:—

(a) an order according or disallowing sanction to a lay-out plan under section 313;

(b) an order directing the alteration or demolition of any street under section 314;

(c) a notice under sub-section (1) of section 315;

(d) a notice under sub-section (2) of section 317;

(e) an order directing the disposal of things removed under Chapter XV or seized under section 344, or an order rejecting the claim of any person for the balance of the proceeds of sale of the things so disposed of;

(f) an order sanctioning or refusing to sanction the erection of any building or the execution of any work under section 336;

(g) an order withholding sanction under the proviso to sub-section (1) of section 337;

(h) an order cancelling a sanction under section 338;

(i) an order requiring the rounding off, splaying or cutting off the height of a building intended to be erected, or for the acquisition of any portion of a site, under section 339;

(j) an order disallowing the erection of any building or the execution of any work under section 340;

(k) an order requiring the stoppage of any erection or work under section 344;

(l) an order requiring the alteration of any building or work under section 345;

(m) an order directing the sealing of unauthorised constructions under section 345A;

(n) an order refusing to grant permission under sub-section (2) of section 346;

(o) an order granting or refusing permission under section 347;

(p) any such other order or notice relating to or arising out of planned development under the provisions of this Act as may be prescribed by rules.

(2) An appeal under this section shall be filed within thirty days from the date of the order or notice appealed against:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) An appeal to the Appellate Tribunal shall be made in such form and shall be accompanied by a copy of the order or

notice appealed against and by such fees as may be prescribed by rules.

Procedure of the Appellate Tribunal.

347C. (1) The Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or annulling the order or notice appealed against or may refer the case back to the authority or officer against whose order or notice the appeal is filed, for a fresh order or notice, after taking additional evidence, if necessary, or such other action as the Appellate Tribunal may specify.

(2) The Appellate Tribunal shall send a copy of every order passed by it to the parties to the appeal.

(3) No Appellate Tribunal shall, in any appeal pending before it in respect of any order or notice under this Act, make an interim order (whether by way of injunction or stay) against the Corporation or against any officer or servant of the Corporation acting or purporting to act in his official capacity, unless an opportunity is given to the Corporation or its officer or servant to be heard in the matter:

Provided that the Appellate Tribunal may without giving an opportunity as aforesaid make an interim order as an exceptional measure if it is satisfied for reasons to be recorded by it in writing that it is necessary so to do for preventing any loss being caused to the person filing the appeal which cannot be adequately compensated in money:

Provided further that every such interim order shall, if it is not vacated earlier, cease to have effect on the expiry of a period of fourteen days from the date on which it is made unless before the expiry of that period, the Appellate Tribunal confirms or modifies that order after giving to the Corporation or its officer or servant an opportunity of being heard.

(4) Subject to rules that may be made by the Central Government in this behalf, the awarding of damages in and the costs of, and incidental to, any appeal before an Appellate Tribunal, shall be in its discretion and it shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, such damages or costs are to be paid and to give, in its order disposing of an appeal, necessary directions for the purposes aforesaid.

(5) An order of the Appellate Tribunal made under this section may be executed or caused to be executed by it on the application of the person in whose favour the order has been made.

(6) In hearing and deciding an appeal or in the execution of an order, an Appellate Tribunal shall follow such procedure as may be prescribed by rules.

(7) Every Appellate Tribunal, shall, in addition to the powers conferred on it under this Act, have the same powers as are vested

in a Civil Court while trying a suit under the Code of Civil Pro- 5 of 1908. cedure, 1908, in respect of the following matters, namely:—

(*a*) summoning and enforcing the attendance of persons and examining them on oath;

(*b*) requiring the discovery and inspection of documents;

(*c*) receiving evidence on affidavits;

(*d*) requisitioning any public record or copies thereof from any court or office;

(*e*) issuing commissions for the examination of witnesses or documents; and

(*f*) any other matter which may be prescribed by rules,

and every proceeding of an Appellate Tribunal in hearing or deciding an appeal or in connection with the execution of its order, shall be deemed to be a judicial proceeding within the meaning of 45 of 1860. sections 193 and 228, and for the purpose of section 196, of the Indian Penal Code, and every Appellate Tribunal shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of 2 of 1974. the Code of Criminal Procedure, 1973.

Appeal against orders of Appellate Tribunal.

347D. (*1*) An appeal shall lie to the Administrator against an order of the Appellate Tribunal, made in an appeal under section 343 or section 347B, confirming, modifying or annulling an order made or notice issued under this Act.

(*2*) The provisions of sub-sections (*2*) and (*3*) of section 347B and section 347C and the rules made thereunder, shall, so far as may be, apply to the filing and disposal of an appeal under this section as they apply to the filing and disposal of an appeal under those sections.

(*3*) An order of the Administrator on an appeal under this section, and subject only to such order, an order of the Appellate Tribunal under section 347B, and subject to such orders of the Administrator or an Appellate Tribunal, an order or notice of an authority appealable under this Act, shall be final.

Bar of jurisdiction of courts.

347E. (*1*) After the commencement of section 7 of the Delhi Municipal Corporation (Second Amendment) Act, 1983, no court shall entertain any suit, application or other proceedings in respect of any order or notice appealable under section 343 or section 347B and no such order or notice shall be called in question otherwise than by preferring an appeal under those sections.

(*2*) Notwithstanding anything contained in sub-section (*1*), every suit, application or other proceeding pending in any court immediately before the commencement of section 7 of the Delhi Municipal Corporation (Second Amendment) Act, 1983, in respect of any order or notice appealable under section 343 or section 347B, shall continue to be dealt with and disposed of by that court as if the said section had not been brought into force.".

Amendment of section 452.

8. In section 452 of the principal Act, in sub-section (*1*), for the words "refer the case for determination to the court of the district judge of Delhi.", the following shall be substituted, namely:—

"refer the case for determination—

(*a*) to the Appellate Tribunal, if such demand relates to the expenses incurred in taking necessary action or steps for the completion of any act or work required to be done or executed in the event of non-compliance with any notice, order or requisition under sections 317, 325, 343, 344 and 345;

(*b*) to the court of the district judge of Delhi, in any other case.".

Amendment of section 456.

9. In section 456 of the principal Act,—

(*a*) in sub-section (*1*), for the words "to the court of the district judge of Delhi", the words and figures ", if such notice, order or requisition is issued under section 317 or section 325 or section 343 or section 344 or section 345 or section 347, to the Appellate Tribunal or, if such notice, order or requisition is issued under any other provision of this Act, to the court of the district judge of Delhi" shall be substituted;

(*b*) in sub-section (*2*), for the words "The court", the words "The Appellate Tribunal or the court, as the case may be" shall be substituted.

Amendment of section 461.

10. Section 461 of the principal Act shall be re-numbered as sub-section (*1*) thereof, and after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) Notwithstanding anything contained in sub-section (*1*), whoever contravenes the provisions of sub-section (*1*) of section 317 or sub-section (*1*) of section 320 or sub-section (*1*) of section 321 or sub-section (*1*) of section 325 or section 339, in relation to any street which is a public street, shall be punishable with simple imprisonment which may extend to six months or with fine which may extend to five thousand rupees or with both.".

Insertion of new section 466A. Certain offences to be cognizable.

11. After section 466 of the principal Act, the following section shall be inserted, namely:—

"466A. The Code of Criminal Procedure, 1973, shall apply to,— 2 of 1974.

(*a*) an offence under sub-section (*5*) of section 313 or section 332 or sub-section (*1*) of section 333 or sub-section (*1*) of section 334 or section 343 or section 344 or section 345 or section 347;

(*b*) an offence under sub-section (*1*) of section 317 or sub-section (*1*) of section 320 or sub-section (*1*) of section 321 or sub-section (*1*) of section 325 or section 339 in relation to any street which is a public street,

as if it were a cognizable offence—

(*i*) for the purposes of investigation of such offence; and

(*ii*) for the purposes of all matters other than—

(*1*) matters referred to in section 42 of that Code, and

(*2*) arrest of a person, except on the complaint of, or upon information received from, such officer of the Corporation, not being below the rank of a Deputy Commissioner, as may be appointed by the Administrator:

Provided that no offence of the contravention of any condition subject to which sanction was accorded for the erection of any building or the execution of any work shall be cognizable, if such contravention relates to any deviation from any plan of such erection or execution sanctioned by the Commissioner which is compoundable on payment of an amount under the bye-laws relating to buildings made under this Act.".

Substitution of new section for section 467. Prosecutions.

12. For section 467 of the principal Act, the following section shall be substituted, namely:—

"467. Save as otherwise provided in this Act, no court shall proceed to the trial of any offence,—

(*a*) under sub-section (*5*) of section 313 or section 332 or sub-section (*1*) of section 333 or sub-section (*1*) of section 334 or section 343 or section 344 or section 345 or section 347, except on the complaint of, or upon information received from, such officer of the Corporation, not being below the rank of a Deputy Commissioner, as may be appointed by the Administrator;

(*b*) under sub-section (*1*) of section 317 or sub-section (*1*) of section 320 or sub-section (*1*) of section 321 or sub-section (*1*) of section 325 or section 339, if any such offence was committed in relation to any street which is a public street, except on the complaint of, or upon information received from, such officer of the Corporation, not being below the rank of a Deputy Commissioner, as may be appointed by the Administrator;

(*c*) other than those specified in clauses (*a*) and (*b*), except on the complaint of, or upon information received from, any of the following appropriate municipal authorities, that is to say, the Commissioner, the General Manager (Electricity) or a person authorised by any of them by a general or special order in this behalf.".

Amendment of Twelfth Schedule.

13. In the Twelfth Schedule to the principal Act,—

(*a*) against section 313, sub-section (5), in the third column, for the letters and figures "Rs. 500", the words "Rigorous imprisonment which may extend to three years" shall be substituted, and the existing entry in the fourth column shall be omitted;

(*b*) against section 332, in the third column, for the letters and figures "Rs. 1,000", the words, letters and figures "Simple imprisonment which may extend to six months or with fine which may extend to Rs. 5,000 or with both" shall be substituted, and the existing entry in the fourth column shall be omitted;

(*c*) against section 333, sub-section (*1*), in the third column, for the letters and figures "Rs. 100", the words, letters and figures "Simple imprisonment which may extend to six months, or with fine which may extend to Rs. 5,000 or with both " shall be substituted ;

(*d*) against section 334, sub-section (*1*), in the third column, for the letters and figures "Rs. 100", the words, letters and figures "Simple imprisonment which amy extend to six months, or with fine which may extend to Rs. 5,000 or with both" shall be substituted ;

(*e*) against section 343, in the third column, for the letters and figures "Rs. 1,000", the words, letters and figures "Simple imprisonment which may extend to six months, or with fine which may extend to Rs. 5,000 or with both" shall be substituted, and the existing entry in the fourth column shall be omitted;

(*f*) against section 344, in the third column, for the letters and figures "Rs. 1,000", the words, letters and figures "Simple imprisonment which may extend to six months or with fine which may extend to Rs. 5,000 or with both" shall be substituted ;

(*g*) against section 345, in the third column, for the letters and figures "Rs. 500", the words, letters and figures "Simple imprisonment which may extend to six months or with fine which may extend to Rs. 5,000 or with both", shall be substituted ;

(*h*) against section 347, in the third column, for the letters and figures "Rs. 500", the words, letters anf figures "Simple imprisonment which may extend to six months or with fine which may extend to Rs. 5,000 or with both" shall be substituted, and the existing entry in the fourth column shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The problem of encroachment on public lands and unauthorised constructions in Delli and the need for taking timely and effective action in such cases, had been engaging the attention of the Government for some time. It was suggested in many qua ters that it is necessary to strengthen the law to make encroachment on public lands and unauthorised constructions cognizable offences. The Estimates Committee of Parliament had also made similar recommendations.

2. In recent years, growth of unauthorised colonies, encroachment on public streets, unauthorised constructions on public and private lands and conversion of residential constructions into commercial complexes have assumed alarming proportions. Owing to substantial increase in the population of Delhi, there had been a near scramble for occupying vacant lands unauthorisedly and to develop them into colonies.

3. The local authorities in Delhi including the Delhi Municipal Corporation have not been able to effectively prevent these activities because of persons taking recourse to legal proceedings and obtaining *ex parte* stay from civil courts. These stay orders remain operative for years till the final settlement of legal proceedings with the result that it becomes necessary in most cases for the local authorities to regularise these unauthorised colonies and difficult to demolish these encroachments or unauthorised constructions. Further, prosecutions for such unauthorised constructions have also not proved effective because of imposition of meagre fines by courts. In order, therefore, to enable the Delhi Municipal Corporation to effectively curb these activities, it is proposed to amend the Delhi Municipal Corporation Act, 1957.

4. The Bill, therefore, provides, among other things, for the following changes in the Act, namely:—

(i) At present the Commissioner, Municipal Corporation of Delhi has power to make orders in cases where the erection of any building or execution of any work has been commenced or is being carried on or has been completed without or contrary to the sanction given by the Corporation to demolish or stop the erection of such building or execution of such work. It is proposed to give the Commissioner the power to seal such unauthorised erection or work or of the premises in which such erection or work is being carried on or has been completed. Such seal can be removed only by the Commissioner for the purpose of demolition of such erection or work or in pursuance of an order made by the Appellate Tribunal or the Administrator of the Union territory of Delhi in an appeal made under the provisions of the Act;

(ii) It is proposed to provide for appeals against certain notices issued or orders made under the provisions of the Act to an Appellate Tribunal. It is also proposed to provide for the constitution of the Appellate Tribunal or Tribunals for the purpose of hearing such appeals. Further appeal against the orders of the Appellate Tribunal would lie to the Administrator of the Union

territory of Delhi. The orders made by the Appellate Tribunal or the Administrator of the Union territory of Delhi on such appeals will be final and no civil court shall have any jurisdiction to entertain any proceedings in respect of notices issued or orders made under the Act for which appeals shall lie to the Appellate Tribunal. Provision has also been made in the Act regarding the procedure to be followed by the Appellate Tribunals in respect of hearing appeals under the Act which will include a specific provision that the Appellate Tribunal cannot give *ex parte* stay of any notices issued or orders made by the Commissioner;

(iii) It is proposed to change the penalty of fine now specified for certain offences under the Act to include imprisonment also and to make some of the offences cognizable;

(iv) Opportunity is being availed of to make certain other changes of a consequential and minor nature.

5. The Bill seeks to achieve the above objects.

NEW DELHI;
The 17th August, 1983.

P. VENKATASUBBAIAH.

FINANCIAL MEMORANDUM

Clause 7 of the Bill seeks to insert a new section 347 A in the Delhi Municipal Corporation Act, 1957, which provides for the constitution of one or more Appellate Tribunals for deciding appeals against notices issued or orders passed under the Act. Sub-section (6) of that section provides for the appointment of a Registrar and such other staff for the Tribunals on such terms and conditions of service as may be prescribed by rules made under the Act. By the provisions included in the Delhi Development (Amendment) Bill, 1983, and the Punjab Municipal (New Delhi Amendment) Bill, 1983, the Appellate Tribunal or Appeallate Tribunals constituted under the Act would also be deemed to be the Appellate Tribunal or Appellate Tribunals for deciding appeals under the provisions of the Delhi Development Act, 1957 and the Punjab Municipal Act, 1911 in its application to New Delhi. It is proposed to set up only two Tribunals in the first instance to hear appeals preferred under all the three Acts. It is estimated that the appointment and functioning of the two Tribunals would involve an annual expenditure of Rs. 2,24,000/-. The said expenditure would, however, be met by the fees proposed to be specified by rules made under the three Acts for preferring appeals under the Acts.

2. The Bill will not involve any other expenditure, either recurring or non-recurring.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill seeks to insert a new section 345A which empowers the Commissioner to make an order directing the sealing of any erection or work or of the premises in which such erection or work is being carried on in the manner prescribed by rules made under the Act.

2. Clause 7 of the Bill seeks to insert a new section 347A in the Act which provides for the constitution of one or more Appellate Tribunals for deciding appeals preferred under the provisions of the Act. Sub-section (2) of the said section 347A provides that the Appellate Tribunal shall consist of one person to be appointed by the Central Government on such terms and conditions of service as may be prescribed by rules. Sub-section (6) of the new section 347A provides that every Appellate Tribunal shall have a Registrar and such other staff on such terms and conditions of service as may be prescribed by rules made under the Act.

3. New section 347B also proposed to be inserted in the Act by clause 7 of the Bill provides for prescribing by rules made under the Act such other order or notice relating to or arising out of planned development under the provisions of the Act against which an appeal shall lie to the Appellate Tribunal. Sub-section (3) of this new section 347B provides that an appeal to the Appellate Tribunal shall be made in such form and shall be accompanied by such fees as may be prescribed by rules.

4. Sub-section (4) of the new section 347C also proposed to be inserted in the Act by clause 7 of the Bill empowers the Appellate Tribunal to award damages in and the costs of, and incidental to, any appeal before it in its discretion sujbect to such rules as may be made by the Central Government under the Act. Sub-section (6) of the new section 347C states that the Appellate Tribunal shall, in hearing and deciding an appeal or that execution of an order, follow such procedure as may be prescribed by rules. Under clause (f) of sub-section (7) of the said section 347C, the Appellate Tribunal shall have additional powers in respect of such matters as may be prescribed by rules.

5. The matters in respect of which the Central Government may make rules under the above provisions relate to matters of procedure and administrative detail. The delegation of legislative power is, therefore, normal in character.

BILL NO. 103 OF 1983

A Bill further to amend the Delhi Development Act, 1957.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Delhi Development (Amendment) Act, 1983.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Amendment of section 5.

61 of 1957.

2. In section 5 of the Delhi Development Act, 1957 (hereinafter referred to as the principal Act), in sub-section (2), for clause (*e*), the following clauses shall be substituted, namely:—

"(*e*) two persons representing the Delhi Electric Supply Committee and the Delhi Water Supply and Sewage Disposal Committee of the said Corporation, of whom—

(*i*) one shall be elected by the members of the Delhi Electric Supply Committee from among themselves; and

(*ii*) one shall be elected by the members of the Delhi Water Supply and Sewage Disposal Committee from among themselves;

(*ee*) one representative of the Delhi Transport Corporation to be nominated by the Central Government;".

Amendment of section 29.

3. In section 29 of the principal Act, in sub-section (*1*), for the words "shall be punishable with fine which may extend to ten thousand rupees, and in the case of a continuing offence, with further fine which may extend to five hundred rupees for every day during which such offence continues after conviction for the first commission of the offence", the following shall be substituted, namely:—

"shall be punishable,—

(*a*) with rigorous imprisonment which may extend to three years, if such development relates to utilising, selling or otherwise dealing with any land with a view to the setting up of a colony without a lay out plan; and

(*b*) with simple imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both in any case, other than those referred to in clause (*a*)".

Amendment of section 30.

4. In section 30 of the principal Act,—

(*a*) sub-section (*2*) shall be omitted;

(*b*) in sub-section (*3*), for the words, brackets and figure "the chairman or the Central Government on the appeal and subject only to such decision the order under sub-section (*1*) or, as the case may be,", the words "the Central Government on the appeal and subject only to such decision" shall be substituted.

Amendment of section 31.

5. In section 31 of the principal Act,—

(*a*) in sub-section (*2*), after the words "place of development", the words "or to seize any construction material, tool, machinery, scaffolding or other things used in such development" shall be inserted;

(*b*) after sub-section (*2*), the following sub-sections shall be inserted, namely:—

"(*2A*) Any of the things caused to be seized by the Authority or the officer of the Authority or the competent authoriy, as the case may be, under sub-section (*2*) shall, unless the owner thereof turns up to take back such things and pays to the Authority, the officer of the Authority or the competent authority, as the case may be, the charges for the removal or storage of such things, be disposed of by it or him by public auction or in such other manner and within such time as the Authority, the officer of the Authority or the competent authority thinks fit.

(*2B*) The charges for the removal and storage of the things sold under sub-section (*2A*) shall be paid out of the proceeds of the sale thereof and the balance, if any, shall be paid to the owner of the things sold on a claim being made therefor within a period of one year from the date of sale, and if no such claim is made within the said period, shall be credited to the fund of the Authority or the competent authority, as the case may be.";

(*c*) sub-section (*7*) shall be omitted.

Insertion of new sections 31A, 31B, 31C, 31D and 31E.

6. After section 31 of the principal Act, the following sections shall be inserted, namely:—

Power to seal unauthorised development.

'31A. (*1*) It shall be lawful for the Authority or the competent authority, as the case may be, at any time, before or after making an order for the removal or discontinuance of any development under section 30 or section 31, to make an order directing the sealing of such development in the manner prescribed by rules, for the purpose of carrying out the provisions of this Act, or for preventing any dispute as to the nature and extent of such development.

(*2*) Where any development has been sealed, the Authority or the competent authority, as the case may be, may, for the purpose of removing or discontinuing such development order the seal to be removed.

(*3*) No person shall remove such seal except—

(*a*) under an order made by the Authority or the competent authority under sub-section (*2*); or

(*b*) under an order of the Appellate Tribunal or the Administrator of the Union territory of Delhi, made in an appeal under this Act.

Appellate Tribunal.

36 of 1957.

31B. The Appellate Tribunal or Appellate Tribunals constituted under section 347A of the Delhi Municipal Corporation Act, 1957, shall be deemed to be the Appellate Tribunal or Appellate Tribunals for deciding appeals under section 31C, and the provisions of section 347A and section 347C of the Delhi Municipal Corporation Act, 1957, and the rules made thereunder, shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of that Act.

Appeals.

31C. (*1*) Any person aggrieved by any of the following orders made under this Act, may prefer an appeal to the Appellate Tribunal, namely:—

(*a*) an order of the Authority granting or refusing to grant permission for development under sub-section (*3*) of section 13;

(*b*) an order of the Authority or the local authority disposing of any land under section 21;

(*c*) an order of an officer of the Authority or the competent authority made under sub-section (*1*) of section 30, for the removal of any development;

(*d*) an order of the Authority or an officer of the Authority or the competent authority made under sub-section (*1*) of section 31, for discontinuing any development;

(*e*) an order of the Authority or the competent authority made under section 31A, directing the sealing of any development.

(2) An appeal under this section shall be filed within thirty days from the date of the order appealed against:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) An appeal to the Appellate Tribunal shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed by rules.

Appeals against orders of Appellate Tribunal.

31D. (1) An appeal shall lie to the Administrator of the Union territory of Delhi against an order of the Appellate Tribunal, confirming, modifying or annulling an order of the Authority, officer of the Authority, local authority or competent authority, as the case may be, under this Act.

(2) The provisions of sub-sections (2) and (3) of section 31C and the provisions of section 347C of the Delhi Municipal Corporation Act, 1957, and the rules made thereunder, shall, so far as may be, apply to the filing and disposal of an appeal under this section as they apply to the filing and disposal of an appeal under the said section 31C. 66 of 1957

(3) An order of the Administrator on an appeal under this section, and subject only to such order, an order of the Appellate Tribunal under section 31C and subject to such orders of the Administrator or an Appellate Tribunal, an order of the Authority, officer of the Authority local authority or competent authority appealable under this Act shall be final.

Explanation.—In sections 30, 31, 31A and 31D, "competent authority" in relation to a local authority means any authority or officer of that local authority empowered or authorised to order demolition or stoppage of buildings or works, in accordance with the provisions made by or under the law governing such local authority.

Bar of jurisdiction of courts.

31E. (1) After the commencement of section 6 of the Delhi Development (Amendment) Act, 1983, no court shall entertain any suit, application or other proceedings in respect of any order appealable under section 31C, and no such order shall be called in question otherwise than by preferring an appeal under that section.

(2) Notwithstanding anything contained in sub-section (1), every suit, application or other proceeding pending in any court immediately before the commencement of section 6 of the Delhi Development (Amendment) Act, 1983, in respect of any order, appealable under section 31C shall continue to be dealt with and disposed of by that court as if the said section had not been brought into force.'.

Insertion of new section 34A.

7. After section 34 of the principal Act, the following section shall be inserted, namely:—

Certain offences to be cognizable.

2 of 1974.

"34A. The Code of Criminal Procedure, 1973, shall apply to an offence under sub-section (*1*) of section 29 as if it were a cognizable offence,—

(*i*) for the purposes of investigation of such offence, and

(*ii*) for the purposes of all matters other than—

(*1*) matters referred to in section 42 of that Code, and

(*2*) arrest of a person except on the complaint of, or upon information received from:—

(*a*) such officer of the Authority not below the rank of a Director as may be appointed by the Administrator of the Union territory of Delhi, if the offence is committed in relation to a development area;

(*b*) such officer of the Municipal Corporation of Delhi not below the rank of a Deputy Commissioner as may be appointed by the Administrator of the Union territory of Delhi, if the offence is committed in relation to any area within the local limits of that Corporation; or

(*c*) the Secretary, New Delhi Municipal Committee, if the offence is committed in relation to any area within the local limits of that Committee:

Provided that no offence which relates to any deviation from the permission, approval or sanction given under section 12 and which could be compounded under the provisions of this Act, shall be cognizable.".

Amendment of section 48.

8. In section 48 of the principal Act, for the words "magistrate of the first class", the words "Metropolitan Magistrate" shall be substituted;

Amendment of section 50.

9. In section 50 of the principal Act, for the portion beginning with the word and figures "section 32" and ending with the words "first class", the words and figures "section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for any court of a Metropolitan Magistrate" shall be substituted.

2 of 1974.

Amendment of section 52.

10. In section 52 of the principal Act, in sub-section (*3*), after the words "under this Act", the words ", except the power to hear appeals," shall be inserted.

Amendment of section 56.

11. In sub-section (*2*) of section 56 of the principal Act, after clause (*jjj*), the following clauses shall be inserted, namely:—

"(*ja*) the manner in which the sealing of any development under sub-section (*1*) of section 31A shall be made;

(*jb*) the form in which an appeal shall be made to the Appellate Tribunal under sub-section (*3*) of section 31C and the fees that shall accompany such appeal;".

STATEMENT OF OBJECTS AND REASONS

The Delhi Development Act, 1957, provides for the constitution of the Delhi Development Authority for the purposes of development of Delhi according to plan and for preventing haphazard growth of colonies and townships in Delhi. For achieving the objects for which the Authority had been constituted, the Authority had been making civic surveys of Delhi and preparing master plans and zonal development plans for the development of land in the Union territory of Delhi. However, owing to unexpected increase in the population of Delhi in recent years, there had been a near scramble for occupying vacant land unauthorisedly and to develop them into colonies in contravention of the master plan or the zonal development plans prepared by the Authority. As a result of this, growth of unauthorised colonies, encroachment on public streets and unauthorised constructions on public and private land have assumed alarming proportions. The Authority and other local authorities exercising jurisdiction in the Union territory of Delhi have not been able to effectively prevent these activities because of persons taking recourse to legal proceedings and obtaining *ex parte* stay orders from civil courts. These stay orders remain operative for years till the final settlement of legal proceedings with the result that the object of achieving he planned growth of Delhi is being defeated. Further, prosecutions for such unauthorised development and use of land have also not proved effective because of imposition of meagre fines by courts. In order, therefore, to enable the Authority to effectively curb these activities and to ensure the development of land in accordance with the plans, it is proposed to amend the Act.

2. The Bill, therefore, provides, among other things, for the following changes in the Act, namely:—

(i) At present, the Authority has power to make orders for the removal or discontinuance of any unauthorised development. It is proposed to give the Authority the power to seal any unauthorised development either before or after making such orders for removal or discontinuance. The sealing of any unauthorised development in pursuance of an order made by the Authority can be removed only by the Authority for the purpose of removing or discontinuing such development, or in pursuance of any order made by the Appellate Tribunal or the Administrator of the Union territory of Delhi in any appeal made under the provisions of the Act.

(ii) It is proposed to provide for appeals against the orders of the Authority or local authority under the provisions of the Act to an Appellate Tribunal. The Appellate Tribunal or the Appellate Tribunals proposed to be constituted under the provisions of the Delhi Municipal Corporation Act, 1957, would be deemed to be the Appellate Tribunal or Tribunals for the purposes of hearing appeals under

this Act also. A further appeal against the orders of the Appellate Tribunal would lie to the Administrator of the Union territory of Delhi. The orders made by the Appellate Tribunal or the Administrator of the Union territory, as the case may be, on such appeals will be final and no civil court shall have any jurisdiction to entertain any proceedings in respect of orders made under the Act for which appeals shall lie to the Appellate Tribunal. The provisions of the Delhi Municipal Corporation Act, 1957, and the rules made thereunder regarding the procedure to be followed by the Appellate Tribunals in respect of hearing appeals under that Act are being made applicable to the Appellate Tribunal while hearing appeals under the Act, which will include the prohibition of giving any *ex parte* stay of orders made by the Authority or local authority.

(iii) It is proposed to change the penalty of fine now specified for offences under the Act to include imprisonment also and to make some of the offences cognizable.

(iv) Opportunity is being availed of to make certain other charges of a consequential and minor nature.

3. The Bill seeks to achieve the above objects.

NEW DELHI; BUTA SINGH.

The 16th August, 1983.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill seeks to insert two new clauses in sub-section (2) of section 56 of the Delhi Development Act, 1957, so as to enable the Central Government to make rules in respect of certain matters provided in the Bill. These matters, *inter alia*, relate to the manner in which the sealing of any development under sub-section (1) of new section 31A shall be made, the form in which an appeal shall be made to the Appellate Tribunal under sub-section (3) of new section 31C and the fees that shall accompany such appeal.

2. The matters with respect to which rules may be made under the aforesaid provisions are matters of procedure or detail. The delegation of legislative power is, therefore, normal in character.

BILL NO. 106 OF 1983

A Bill further to amend the Punjab Municipal Act, 1911, as in force in New Delhi.

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Punjab Municipal (New Delhi Amendment) Act, 1983.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Punjab Act III of 1911.

Amendment of section 3.

2. In section 3 of the Punjab Municipal Act, 1911, as in force in New Delhi (hereinafter referred to as the principal Act), after clause (*1*), the following clause shall be inserted, namely:—

'(*1A*) "Appellate Tribunal" means an Appellate Tribunal referred to in section 225-A;'.

Amendment of section 170-E.

3. In section 170-E of the principal Act, for the words "shall be liable to a fine which may extend to five hundred rupees", the words "shall be punishable with simple imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both" shall be substituted.

Amendment of section 172.

4. In section 172 of the principal Act,—

(*a*) in sub-section (*1*), for the words "shall be punishable with a fine which may extend to fifty rupees", the following shall be substituted, namely:—

"shall be punishable,—

(*a*) if such street is a public street, with simple imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both; and

(*b*) in any other case, with fine which may extend to fifty rupees";

(*b*) in sub-section (*2*), the proviso shall be omitted.

Amendment of section 173.

5. In section 173 of the principal Act,—

(*a*) in sub-section (*1*), after the word "street", wherever it occurs, the words "or public place" shall be inserted;

(*b*) in sub-section (*2*),—

(*i*) in the opening portion, for the words "shall be punishable with fine which may extend to fifty rupees", the following shall be substituted, namely:—

"shall be punishable,—

(*a*) if any such act is done in relation to a public street, with simple imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both; and

(*b*) if any such act is done in relation to a street other than a public street, or to a public place, with fine which may extend to fifty rupees";

(*ii*) in clause (*ii*), after the word "street", the words "or public place" shall be inserted.

Amendment of sections 174-A, 175 and 190.

6. In section 174-A, section 175 and clause (*e*) of sub-section (*1*) of section 190 of the principal Act, after the word "street", wherever it occurs, the words "or public place" shall be inserted.

Amendment of section 192-A.

7. In section 192-A of the principal Act, for the portion beginning with the words "on conviction by a magistrate be liable to fine" and ending with the words "fifty rupees for every day during which such use continues", the following shall be substituted, namely:—

"be punishable with simple imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both".

Amendment of section 195.

8. Section 195 of the principal Act shall be renumbered as sub-section (*1*) thereof, and—

(*i*) in sub-section (*1*) as so renumbered, for the words "delivered to the owner within six months from the completion of the building", at both the places where they occur, the words "delivered to the owner or occupier of that building" shall be substituted;

(*ii*) after sub-section (*1*) as so renumbered, the following sub-section shall be inserted, namely:—

"(*2*) Any person who begins, erects or re-erects any building as described in sub-section (*1*), shall be punishable with simple imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.".

Amendment of section 195-A.

9. In section 195-A of the principal Act,—

(*a*) in sub-section (*1*), for the words and figures "to be delivered to the owner within six months from the commencement of the building, or from the contravention of the terms of any sanction, or of any bye-law framed under section 190, as the case may be", the words "delivered to the owner or occupier of that building" shall be substituted;

(*b*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(*2*) Any person failing to comply with the terms of such notice shall be punishable with simple imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.".

Insertion of new sections 195-B and 195-C.

10. After section 195-A of the principal Act, the following sections shall be inserted, namely:—

Power to seal unauthorised constructions.

"195-B. (*1*) It shall be lawful for the committee, at any time, before or after delivering the notice to the owner or occupier of a building under section 195 or section 195-A, to make an order directing the sealing of such building, in the manner prescribed by rules, for the purpose of carrying out the provisions of this Act, or for preventing any dispute as to the nature and extent of erection or re-erection of such building.

(*2*) Where any building has been sealed, the committee may, for the purpose of altering or demolishing such building, order the seal to be removed.

(*3*) No person shall remove such seal except—

(*a*) under an order made by the committee under sub-section (*2*); or

(*b*) under an order of the Appellate Tribunal or the Administrator of the Union territory of Delhi, made in an appeal under this Act.

Power to seize materials, etc., used in un-authorised construc-tion.

195-C. (*1*) Where any building is begun, erected or re-erected as described in section 195, the committee may seize or cause to be seized any construction material, tool, machinery, scaffolding or other things used in such building or in the erection or re-erection thereof, and shall, unless the owner or occupier of such building turns up to take back such things and pays to the committee the charges for the removal or storage of such things, be disposed of by the committee by public auction or in such other manner and within such time as the committee thinks fit.

(*2*) The charges for the removal and storage of the things sold under sub-section (*1*) shall be paid out of the proceeds of the sale thereof and the balance, if any, shall be paid to the owner or occupier of the building on a claim being made therefor within a period of two years from the date of sale, and if no such claim is made within the said period, shall be credited to the municipal fund.".

Amend-ment of section 225.

11. In section 225 of the principal Act, in sub-section (*1*), clauses (*a*) and (*b*) shall be omitted.

Insertion of new sections 225-A, 225-B, 225-C and 225-D.

12. After section 225 of the principal Act, the following sections shall be inserted, namely:—

Appellate Tribunal.

"225-A. The Appellate Tribunal or Appellate Tribunals constituted under section 347A of the Delhi Municipal Corporation Act, 1957 shall be deemed to be the Appellate Tribunal or Appellate Tribunals for deciding appeals under section 225-B, and the provisions of the said section 347A and section 347C of the Delhi Municipal Corporation Act, 1957, and the rules made thereunder shall, with necessary modifications, apply for the purposes of this Act as they apply for the purposes of that Act. 66 of 1957.

Appeals to the Appellate Tribunal.

225-B. (*1*) Any person aggrieved by any of the following orders or notices, may prefer an appeal against such order or notice to the Appellate Tribunal, namely:—

(*a*) an order under section 170-C refusing or according sanction to the proposed street; or

(*b*) a notice under section 171 requiring a street to be levelled, paved, metalled, flagged, channelled, drained, cleaned or provided with proper means of lighting, or declaring a street to be a public street; or

(*c*) a notice under sub-section (*2*) of section 172 requiring removal or alteration of an immoveable encroachment or immoveable overhanging structure; or

(*d*) an order under section 173 requiring removal of a moveable encroachment, moveable overhanging structure or any other obstruction or encroachment or for doing any other act thereunder; or

(*e*) a notice under section 174, requiring any building or any part thereof to be set back to or towards the regular line of a street or an order for the payment of compensation or an order for any building to be set forward for the improvement of the line of a street; or

(*f*) an order under section 193 sanctioning or refusing to sanction erection or re-erection of a building; or

(*g*) an order under section 193-A requiring modification of the building under construction; or

(*h*) a notice under sub-section (*1*) of section 195 requiring alteration or demolition of a building; or

(*h*) a notice under sub-section (*1*) of section 195 requiring tions to be discontinued; or-

(*j*) an order under section 195-B requiring sealing of any unauthorised construction; or

(*k*) an order under section 195-C requiring seizure or disposal of any construction material, tool, machinery, scaffolding or other things; or

(*l*) an order refusing to pay any compensation or to pay such compensation as claimed under the provisions of this Act; or

(*m*) any such other order or notice relating to or arising out of planned development under the provisions of this Act as may be prescribed by rules.

(*2*) An appeal under this section shall be filed within thirty days from the date of the order or notice appealed against:

Provided that the Appellate Tribunal may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

(*3*) An appeal to the Appellate Tribunal shall be made in such form and shall be accompanied by a copy of the order or notice appealed against and by such fees as may be prescribed by rules.

Appeal against orders of Appellate Tribunal.

225-C. (*1*) An appeal shall lie to the Administrator of the Union territory of Delhi against an order of the Appellate Tribunal confirming, modifying or annulling an order or notice made or issued under this Act.

(*2*) The provisions of sub-sections (*2*) and (*3*) of section 225-B and the provisions of section 347C of the Delhi Municipal Corporation Act, 1957, and the rules made thereunder, shall, so far as may be, apply to the filing and disposal of an appeal under this section

66 of 1957.

as they apply to the filing and disposal of an appeal under the said section 225-B.

(3) An order of the Administrator on an appeal under this section, and subject only to such order, an order of the Appellate Tribunal under section 225-B, and subject to such orders of the Administrator or an Appellate Tribunal, an order or notice of the committee appealable under this Act, shall be final.

Bar of jurisdiction of courts.

225-D. (1) After the commencement of section 12 of the Punjab Municipal (New Delhi Amendment) Act, 1983, no court shall entertain any suit, application or other proceedings in respect of any order or notice appealable under section 225-B and no such order or notice shall be called in question otherwise than by preferring an appeal under that section.

(2) Notwithstanding anything contained in sub-section (1), every suit, application or other proceeding pending in any court immediately before the commencement of section 12 of the Punjab Municipal (New Delhi Amendment) Act, 1983, in respect of any order or notice appealable under section 225-B shall continue to be dealt with and disposed of by that court as if the said section had not been brought into force.".

Insertion of new section 227-A.

13. In the principal Act, under the heading "*Offences and Prosecutions*", and before section 228, the following section shall be inserted, namely:—

Certain offences to be cognizable.

"227-A. The Code of Criminal Procedure, 1973, shall apply to an offence under section 170-E, or clause (*a*) of sub-section (1) of section 172, or clause (*a*) of sub-section (2) of section 173, or section 192-A, or sub-section (2) of section 195, or sub-section (2) of section 195-A as if it were a cognizable offence— 24 of 1974

(*i*) for the purposes of investigation of such offence; and

(*ii*) for the purposes of all matters other than—

(1) matters referred to in section 42 of that Code, and

(2) arrest of a person except on the complaint of, or upon information received from, such officer of the committee, not being below the rank of the Secretary to the committee, as may be appointed by the Administrator of the Union territory of Delhi:

Provided that no offence of beginning, erecting or re-erecting any building in contravention of any condition subject to which any sanction was granted by the committee shall be cognizable, if such contravention relates to any deviation from any plan of erection or re-erection of that building sanctioned by the committee which is compoundable on payment of an amount under this Act.'.

Amendment of section 228.

14. Section 228 of the principal Act shall be re-numbered as sub-section (*1*) thereof, and after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

"(*2*) No court shall take cognizance of an offence punishable under section 170-E or clause (*a*) or sub-section (*1*) of section 172, or clause (*a*) of sub-section (*2*) of section 173, or section 192-A, or sub-section (*e*) of section 195 or sub-section (*2*) of section 195-A, except on the complaint of, or upon information received from, such officer of the committee, not being below the rank of the Secretary to the committee, as may be appointed by the Administrator of the Union territory of Delhi.".

15. In section 240 of the principal Act,—

Amendment of section 240.

(*a*) in sub-section (*1*), after clause (*v*), the following clauses shall be inserted, namely:—

"(*va*) the manner in which the sealing of any building under sub-section (*1*) of section 195-B shall be made;

(*vb*) the order or notice relating to or arising out of planned development under the provisions of this Act against which an appeal shall be preferred to the Appellate Tribunal under clause (*m*) of sub-section (*1*) of section 225-B;

(*vc*) the form in which an appeal shall be made to the Appellate Tribunal under sub-section (*3*) of section 225-B and the fees that shall accompany such appeal;";

(*b*) after sub-section (*7*), the following sub-section shall be inserted, namely:—

"(*8*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

STATEMENT OF OBJECTS AND REASONS

The problem of encroachment on public lands and unauthorised constructions in Delhi and the need for taking timely and effective action in such cases had been engaging the attention of the Government for some time. It was suggested in many quarters that it is necessary to strengthen the laws to make encroachment on public lands and unauthorised constructions cognizable offences. The Estimates Committee of Parliament had also made similar recommendations.

2. In recent years, encroachment on public streets, unauthorised construction on public and private lands and conversion of residential constructions into commercial complexes have assumed alarming proportions.

3. The local authorities in Delhi including the New Delhi Municipal Committee have not been able to effectively prevent these activities because of persons taking recourse to legal proceedings and obtaining *ex parte* stay from civil courts. These stay orders remain operative for years till the final settlement of legal proceedings with the result that it becomes difficult for the local authorities to demolish these encroachments or unauthorised constructions. Further, prosecutions for encroachments or unauthorised constructions have also not proved effective because of imposition of meagre fines by courts. In order, therefore, to enable the New Delhi Municipal Committee to effectively curb these activities, it is proposed to amend the Punjab Municipal Act, 1911 as in force in New Delhi.

4. The Bill, therefore, provides, among other things, for the following changes in the Act, namely:—

(i) At present the New Delhi Municipal Committee may, by notice delivered to the owner, require a building begun, erected or re-erected without sanction to be altered or demolished within the period specified in the notice. The Committee has also power to require the owner of such building to discontinue the building operations. It is proposed to give the Committee the power to seal such building. Such seal can be removed only by the Committee for the purpose of altering or demolishing such building or in pursuance of an order made by the Appellate Tribunal or the Administrator of the Union territory of Delhi in an appeal made under the provisions of the Act;

(ii) It is proposed to provide for appeals against certain notices issued or orders made under the provisions of the Act to an Appellate Tribunal. The Appellate Tribunal or the Appellate Tribunals proposed to be constituted under the provisions of the Delhi Municipal Corporation Act, 1957 would be deemed to be the Appellate Tribunal or Tribunals, for the purposes of hearing appeals under this Act also. A further appeal against the orders of the Appellate Tribunal would lie to the Administrator of the Union

territory of Delhi. The orders made by the Appellate Tribunal or the Administrator of the Union territory of Delhi, as the case may be, on such appeals will be final and no civil court shall have any jurisdiction to entertain any proceedings in respect of notices issued or orders made under the Act for which appeals shall lie to the Appellate Tribunal. The provisions of the Delhi Municipal Corporation Act, 1957 and the rules made there-under regarding the procedure to be followed by the Appellate Tribunals in respect of hearing appeals under that Act are being made applicable to the Appellate Tribunal while hearing appeals under the Act which will include the prohibition of giving any *ex parte* stay of notices issued or orders made under the Act;

(iii) It is proposed to change the penalty of fine now specified for certain offences under the Act to include imprisonement also and to make some of the offences cognizable;

(iv) Opportunity is being availed of to make certain other changes of a consequential and minor nature.

5. The Bill seeks to achieve the above objects.

NEW DELHI; P. VENKATASUBBAIAH.

The 17th August, 1983.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (a) of clause 15 of the Bill seeks to insert three new clauses in sub-section (1) of section 240 of the Punjab Municipal Act, 1911 as in force in New Delhi so as to enable the State Government to make rules in respect of certain matters provided in the Bill. These matters, *inter alia*, relate to the manner in which the sealing of any building under sub-section (1) of new section 195-B shall be made, the order or notice relating to or arising out of planned development under the provisions of the Act against which an appeal shall be made to the Appellate Tribunal under clause (m) of sub-section (1) of new section 225-B and the form in which an appeal shall be made to the Appellate Tribunal under sub-section (3) of the said section 225-B and the fees that shall accompany such appeal.

2. The matters in respect of which rules may be made under the new provisions are matters of procedure or detail. The delegation of ledgislative power is, therefore, normal in character.

BILL NO. 105 OF 1983

A Bill further to amend the Public Premises (Eviction of Unauthorised Occupants) Act, 1971

BE it enacted by Parliament in the Thirty-fourth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Public Premises (Eviction of Unauthorised Occupants) Amendment Act, 1983.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Amendment of section 5A.

2. In section 5A of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as the principal Act),— 40 of 1971.

(*a*) in sub-section (*1*), in clause (*a*), for the words "other structure or fixture", the words "any movable or immovable structure or fixture" shall be substituted;

(*b*) for sub-section (*2*), the following sub-sections shall be substituted, namely:—

"(2) Where any building or other immovable structure or fixture has been erected, placed or raised on any public premises in contravention of the provisions of sub-section (1), the estate officer may serve upon the person erecting such building or other structure or fixture, a notice requiring him either to remove, or to show cause why he shall not remove such building or other structure or fixture from the public premises within such period, not being less than seven days, as he may specify in the notice; and on the omission or refusal of such person either to show cause, or to remove such building or other structure or fixture from the public premises, or where the cause shown is not, in the opinion of the estate officer, sufficient, the estate officer may by order, remove or cause to be removed the building or other structure or fixture from the public premises and recover the cost of such removal from the person aforesaid as an arrear of land revenue.

(3) Where any movable structure or fixture has been erected, placed or raised, or any goods have been displayed or spread, or any cattle or other animal has been brought or kept, on any public premises, in contravention of the provisions of sub-section (1) by any person, the estate officer may, by order, remove or cause to be removed without notice, such structure, fixture, goods, cattle or other animal, as the case may be, from the public premises and recover the cost of such removal from such person as an arrear of land revenue.".

Amendment of section 5B.

3. In section 5B of the principal Act, in sub-section (1),—

(a) in the opening paragraph the words brackets and figure ", not being less than seven days, or more than fifteen days, from the date of publication of the order under sub-section (3)" shall be omitted;

(b) in the proviso, after the words "by means of a notice", the words "of not less than seven days" shall be inserted.

Insertion of new section 5C.

4. After section 5B of the principal Act, the following section shall be inserted, namely:—

Power to seal unauthorised construction.

"5C. (1) It shall be lawful for the estate officer, at any time, before or after making an order of demolition under section 5B, to make an order directing the sealing of such erection or work or of the public premises in which such erection or work has been commenced or is being carried on or has been completed in such manner as may be prescribed, for the purpose of carrying out the provisions of this Act, or for preventing any dispute as to the nature and extent of such erection or work.

(2) Where any erection or work or any premises in which any erection or work is being carried on has, or have been sealed, the estate officer may, for the purpose of demolishing such erection or work in accordance with the provisions of this Act, order such seal to be removed.

(3) No person shall remove such seal except—

(a) under an order made by the estate officer under sub-section (2); or

(b) under an order of the appellate officer made in an appeal under this Act.".

Amendment of section 9.

5. In section 9 of the principal Act,—

(a) in sub-section (1), after the words, figure and letter "or section 5B", the words, figure and letter "or section 5C" shall be inserted;

(b) in sub-section (2),—

(i) in clause (a), the word "and" at the end shall be omitted;

(ii) in clause (b), the word "and" shall be inserted at the end;

(iii) after clause (b), the following clause shall be inserted, namely:—

"(c) in the case of an appeal from an order under section 5C, within twelve days from the date of such order.".

Amendment of section 11.

6. In section 11 of the principal Act,—

(a) sub-sections (1) and (2) shall be renumbered as sub-sections (2) and (3) thereof respectively, and before sub-section (2) as so renumbered, the following sub-section shall be inserted, namely:—

"(1) If any person unlawfully occupies any public premises, he shall be punishable with simple imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both:

Provided that a person who, having been lawfully in occupation of any public premises by virtue of any authority (whether by way of grant, allotment or by any other mode whatsoever) continues to be in occupation of such premises after such authority has ceased to be valid, shall not be guilty of such offence.";

(b) in sub-section (2) as so renumbered, for the words "one thousand rupees", the words "five thousand rupees" shall be substituted;

(c) in sub-section (3) as so renumbered, for the word, brackets and figure "sub-section (1)", the word, brackets and figure "sub-section (2)" shall be substituted.

Insertion of new section 11A.

7. After section 11 of the principal Act, the following section shall be inserted, namely:—

Offences under section 11 to be cognizable.

"11A. The Code of Criminal Procedure, 1973, shall apply to an offence under section 11 as if it were a cognizable offence—

2 of 1974.

(i) for the purposes of investigation of such offence, and

(ii) for the purposes of matters other than—

(1) matters referred to in section 42 of that Code, and

(2) arrest of a person except on the complaint of, or upon information received from,—

(a) a Group A officer as may be appointed by the Central Government, in the case of an offence in relation to the public premises specified in sub-clause (1) of clause (e) of section 2;

(b) an officer equivalent to the rank of a Group A officer of the Central Government or where it is not possible to specify an officer of such equivalent rank, such executive officer as may be appointed by the statutory authority in the case of an offence in relation to the public premises specified in sub-clause (2) of clause (e) of section 2;

(c) such Deputy Commissioner, in the case of an offence in relation to the public premises belonging to the Municipal Corporation of Delhi, as may be appointed by the Administrator of the Union territory of Delhi;

(d) the Secretary, New Delhi Municipal Committee in the case of an offence in relation to the public premises belonging to the New Delhi Municipal Commitee;

(e) the Secretary of a notified area committee, in the case of an offence in relation to the public premises belonging to that committee;

(f) such Director, in the case of an offence in relation to the public premises belonging to the Delhi Development Authority, as may be appointed by the Administrator of the Union territory of Delhi.".

Amendment of section 13.

8. In section 13 of the principal Act, in sub-section (*1A*), after the word, brackets and figure "sub-section (2)", the words, brackets and figure "or sub-section (3)" shall be inserted.

Amendment of section 15.

9. In section 15 of the principal Act, after clause (c), the following clause shall be inserted, namely:—

"(cc) the sealing of any erection or work or of any public premises under section 5C, or".

Amendment of section 18.

10. In sub-section (2) of section 18 of the principal Act, after clause (e), the following clause shall be inserted, namely:—

"(*ee*) the manner in which the sealing of any erection or work or of any public premises shall be made under sub-section (1) of section 5C;".

STATEMENT OF OBJECTS AND REASONS

The Public Premises (Eviction of Unauthorised Occupants) Act, 1971, provides for the eviction of unauthorised occupants from public premises and, for this purpose, the Act provides for appointment of estate officers who have been given power, after necessary inquiry, to pass orders of eviction of such unauthorised occupants. The estate officer has also been given powers to remove, and to order demolition of, unauthorised constructions.

5. Of late, cases of unauthorised occupation in public premises, especially in the Union territory of Delhi, had been on the increase. There had been suggestions from many quarters to strengthen the provisions of this Act by providing for increased penalties and making the offences under the Act cognizable. In order, therefore, to enable the estate officers to exercise their powers under the Act effectively and to remove unauthorised occupants from public premises, it is proposed to amend the Act.

3. The Bill accordingly provides, among other things, for the following changes in the Act, namely:—

(i) Under the existing provisions, the estate officer is required to make an order directing the demolition of unauthorised construction within a period of not less than seven days or more than fifteen days to be specified in such order and no such order shall be made unless the person concerned has been given a show cause notice. It is proposed to omit the provision regarding the reference to the specific period to be mentioned in the order for demolition and to provide only for a period of seven days for the show cause notice.

(ii) It is proposed to empower the estate officer, at any time before or after making an order of demolition of unauthorised construction, to make an order to direct the sealing of any unauthorised construction. The sealing of such unauthorised construction in pursuance of an order made by the estate officer can be removed only by him for the purpose of demolishing such construction or in pursuance of an order made by the appellate officer in any appeal made under the provisions of the Act. A provision for appeal against the order of sealing by the estate officer to the appellate officer has also been included.

(iii) It is proposed to create a new offence of unlawful occupation of any public premises and to make it punishable with imprisonment for six months or with fine up to five thousand rupees. Opportunity has also been availed of to increase the penalty by way of fine now provided for occupying a public premises by an evicted person without authority for such occupation.

(iv) It is also proposed to make the offences under the Act cognizable.

4. The Bill seeks to achieve the aforesaid objects.

NEW DELHI;
The 19th August, 1983.

BUTA SINGH.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill seeks to insert a new clause (ee) in sub-section (*2*) of section 18 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, so as to empower the Central Government to specify by rules the manner in which the sealing of any erection or work or of any public premises shall be made under sub-section (*1*) of the new section 5C proposed to be inserted in the Act by clause 4 of the Bill.

2. The matters with respect to which rules may be made by the Central Government under the proposed provision are matters of procedure or detail. The delegation of legislative power is, therefore, normal in character.

AVTAR SINGH RIKHY,
Secretary.

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